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OFFICE OF THE OMBUDSMAN

LEGISLATIVE ASSEMBLY
GOVERNMENT OF ALBERTA

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LEGISLATIVE ASSEMBLY
PROVINCE OF ALBERTA

Office of the Ombudsman

June 18, 1992

The Honourable David J. Carter
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5J 2B6

Mr. Speaker:

This is the 25th Report of the Alberta Ombudsman to the Legislative Assembly for the Province of Alberta.

In accordance with the provisions of Section 27(1) of the **Ombudsman Act** and as an officer of the Legislature, I have the pleasure of submitting to you, and through you to the Legislative Assembly, this Report which covers the activities of the Office of the Ombudsman for the calendar year 1991.

The refined process of complaint investigation as demonstrated throughout this Report has evolved since George B. McClellan took office 25 years ago. I am proud of the history and service this office has provided and the foresight demonstrated in having Alberta as the first jurisdiction in North America to incorporate the Ombudsman concept.

Sincerely,

Harley Johnson
Ombudsman

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From the Ombudsman Act
Chapters 0-7 RSA 1990

2(1) There shall be appointed, as an officer of the Legislature, a commissioner for investigations to be called the Ombudsman.

27(1) The Ombudsman shall in each year make a report to the Legislature on the exercise of his functions under this Act.

92-07308/

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1991 Highlights

Compared to 1990, a growth of 23% occurred in the total number of complaints received during 1991.

The 7,187 oral complaints received in 1991 established a new record and surpassed the previous all-time high set in 1988 by a total of 390 complaints.

Unsupported complaints (complaints for which no government administrative error is determined) outnumber the supported complaints (complaints in which a government administrative error did occur) by a ratio of three to one.

The research into "complainant protection," which would allow people to lodge complaints without fear of reprisal or dismissal, is nearing completion. The material will be presented, for the second time, to the Standing Committee on Legislative Offices with a recommendation that such legislation be adopted in Alberta.

Of great concern is the fact that still no investigative recourse exists for voluntary patients in mental health facilities either to the Mental Health Advocate or the Ombudsman. This will be a thrust of the Office for 1992.

A Ministerial request was the impetus for investigating the circumstances surrounding the suicide of a Workers' Compensation Board (WCB) claimant in the parking lot of the WCB office in Calgary. The claimant had suffered head injuries resulting from a work-related fall. The investigation indicated a number of administrative errors had occurred. Recommendations were made by the Ombudsman to WCB to reduce the chance of a similar situation occurring. All of the recommendations have either been implemented or are in the process of being implemented by WCB personnel.

The Office of the Ombudsman is assuming a proactive role in identifying, with the aid of the computer system, areas of potential concern. This means that if the Office is receiving a number of oral complaints about a particular issue, the information will be discussed with officials of the department involved with a view to resolving the problem prior to it becoming a major dilemma.

Eighty-five presentations on the functions and mandate of the Office of the Ombudsman have been made throughout the province during 1991. In addition, 31 media interviews have taken place.

2

Remarks of the Ombudsman, Harley Johnson

This is my third report to the Legislative Assembly since being appointed Ombudsman for the Province of Alberta.

The four priorities I established upon coming into office - educative, investigative, managerial, and facilitative - are still my prime focuses as well as that of my staff, and to these I have added the need to be proactive.

PROACTIVE ROLE: By its very nature, the Office of the Ombudsman is reactive. That is, I have the legislated authority to investigate only those complaints which come to my attention in the form of a written statement and after all the appeals available to a person are exhausted. The only time I become involved in issues prior to the completion of all appeals is when a complaint is of unnecessary or undue delay. However, with very few exceptions (an Own Motion investigation is one example) would I or my staff be capable of identifying any areas of potential concern. In reviewing whether or not this office has a role to play in identifying concerns in a proactive manner, I have determined that, 'yes', we are in a position to do so, and, 'yes', we should do so. However, in terms of information gathering, compilation, and retrieval, the system was not set up to be able to produce this kind of material so that we could determine a problem before a full-scale investigation is required.

Through the last half of 1991 and leading into the first quarter of 1992, I have had my staff working on a computerized model which could retrieve information regarding specific areas of concern. As an example, when members of the public contact my office as a result of feeling unfairly treated by a certain office of the provincial government, that information can be stored on this computer program and retrieved to determine if specific offices, personnel, certain programs, or any of a number of other categories of complaint, are developing a problem. With that information, I could present concerns to a Deputy Minister, a Minister, a President or Chairman of a Corporation before a serious problem developed or to resolve issues before they would become a major concern. Since this system is innovative, it will be monitored closely and reported on in subsequent annual submissions to the Legislative Assembly.

INVESTIGATIVE ROLE: There were no new investigators added to my staff during 1991; however, I did second my solicitor to private practice and had on secondment from the University of Alberta, Professor Linda Reif who filled in admirably as my Director of Legal Services.

Training of the investigative staff continues. Investigators travelled to Winnipeg for the Canadian Ombudsman Conference where they interacted with other investigators from across Canada and participated in the Conference format. Two of my investigators attended a Canadian Investigators' Workshop held in Toronto where different concepts and processes, used by other Ombudsmen and Ombudsmen investigators throughout Canada, were discussed. The prime focus of the Conference and Workshop was to allow for an interchange of ideas on the best approach to use in completing investigations and resolving issues supported by an investigation.

During the past year, my office has become more involved with supporting the functions of the International Ombudsman Institute which is situated at the University of Alberta. In addition to my position as a member of the Board of Directors, I was asked to sit as Treasurer of the International Ombudsman Institute while Timothy Christian, Dean of the Faculty of Law, was on a year's sabbatical. As well, two former members of my staff and I will be directly involved with the presentation of the first international investigators' training seminar which will be conducted in Edmonton in August. The presentation will include investigative techniques, and the course may include field trips to some of the departments of the provincial government. The primary purpose of this workshop is to present a course that can be portable to any country throughout the world. Depending on the success and critique of the workshop, it will be translated into French and Spanish.

MANAGERIAL ROLE: This objective has been to upgrade staff through training and orientation. Most managers face the question of how to find appropriate training and then how to ensure the training is implemented into an operational practice. One method to upgrade and expose more staff to the concepts and skills presented through training sessions is to have the staff member who attended the training be required to make a presentation to other staff members who could not attend the sessions. This concept has been successfully introduced at the support, investigative, and managerial levels within the office.

FACILITATIVE ROLE: I feel very comfortable utilizing the facilitative model in the resolution of complaints; and, as I reported during 1990, I am pleased to state again that I have found it unnecessary to take any complaint beyond the Minister level to the Lieutenant Governor in Council or to the Legislative Assembly. This speaks highly for those people within departments who are responsible for instituting and implementing recommendations made by the Ombudsman.

EDUCATIVE ROLE: There were a total of 85 presentations made to the public or to private organizations during 1991, as well as 31 media interviews or presentations for a total of 116. A number of the media interviews were phone-in talk shows and are shown later in this Annual Report. It is imperative that this educational priority be maintained in this office, and I plan to continue doing this throughout the remainder of my term.

Of the over 900 investigations conducted by my office during 1991, none was more heartfelt than the Ministerial request for an independent review of the suicide of Gregory Jack. The investigation, which was made public, identified that errors occurred in the handling of Mr. Jack's worker's compensation claim. In all, ten recommendations were made to the Workers' Compensation Board and I am pleased to report that all ten have been accepted. Some recommendations have been implemented and others are in the process of implementation. Such recommendations cannot guarantee errors will not occur again, but they will significantly reduce the chance of their re-occurring.

During 1991, I had the pleasure of welcoming to my office Charles Maino, the Ombudsman for Papua New Guinea, along with Peter Kape, a senior investigator. Mr. Maino had just completed a major investigation dealing with political corruption within his own country, which saw a deputy prime minister indicted for a number of influence peddling offences. Mr. Maino was on his way to Calgary where he and I were involved in a conference on civilian oversight of law enforcement agencies.

Also visiting my office in 1991 was Tomoaki Shigemitsu from Japan, who was researching the Ombudsman system and how it could fit into a city administration in Japan where he is a legal advisor.

Alberta is recognized around the world as being innovative and in the forefront of Ombudsmen issues. This high regard, which has continued since the inception of the office 25 years ago, pleases me and is commented on when I attend meetings with members from different countries. Many Ombudsmen acknowledge how well this office functions in facilitating resolution of complaints.

I also appreciate the support of members of the Standing Committee on Legislative Offices. This has been positively commented on by numerous other Ombudsmen, who would like to enjoy this type of support.

In closing, there are outstanding issues from my 1990 Report that have not yet been resolved. I have concerns there is no complainant protection clause within the **Ombudsman Act**. This issue will be presented to the Standing Committee again as research on that presentation is almost complete. I have concerns about contract agencies which are providing a public service through contracts and are funded by public monies but are outside the purview of an Ombudsman to investigate in relation to any complaint a member of the public might have.

Another issue remaining which I addressed (as well as the Mental Health Advocate) is concerning the availability of an investigative mechanism for mental health patients in a facility. While involuntary patients have access to assistance, voluntary patients do not. This issue should have been resolved during 1991 in discussions with the Department of Health. However, and unfortunately, this has not occurred and, in 1992, I will be pressing more strongly for an equitable resolution.

While not agreeing totally with my position that the **School Act** allows the Ombudsman to investigate the Minister of Education as it pertains to the administrative actions of the Minister, I am pleased to report that the Minister has stated very strongly that even though he does not agree with my position, his office will fully co-operate with any investigation conducted by the Ombudsman into those issues.

I commented on the administrative practice of access to information contained within government files. For any complaints I received during 1991 when a person required information to go through another process (a process of making an application at the federal, provincial, municipal, or university level), the appropriate information was supplied to that complainant on my recommendation.

The role of the Ombudsman continues to be extremely challenging and exceptionally rewarding to me. I am pleased with the level of expertise within my staff and with the response I get from government departments on my recommendations. With very few exceptions, my recommendations are accepted by the departments without the need to report to a Minister, the Cabinet or to the Legislature as outlined in the **Ombudsman Act**.

Public Education and Community Involvement

Edmonton, Alberta Vocational College (students/staff)
Grande Prairie Regional College (public)
Fairview College (public)
Peace River, North Peace Adult Education Consortium (public)
Edmonton, American Society for Industrial Security
Edmonton, University of Alberta - Faculty of Law (students)
Calgary, Women's Canadian Club
Smoky Lake Rural Crime Watch Association
Leduc, Alberta Vocational College/Leduc Learning Centre (students/staff)
Leduc, Alberta Vocational College/Leduc Learning Centre (public)

Wetaskiwin, Alberta Vocational College & the Further Education Council (students)
Wetaskiwin, Alberta Vocational College & the Further Education Council (public)
Cleardale, Menno Simmons School (public)
Calgary, Mount Royal College (students/staff)
Calgary, Mount Royal College (public)
Edmonton, Master of Public Management Program - U of A: "Management in the Public Sector"
Red Deer College (students/staff) - 2 presentations
Calgary, Southern Alberta Chapter of the American Society for Industrial Security
Edmonton, The Society for the Retired and Semi-Retired
Edmonton, The Young Men's Club

Edmonton, Administrative Management Society
Fort Saskatchewan Chamber of Commerce (Dignitaries Luncheon)
Fort Saskatchewan Chamber of Commerce (Ribbon Cutting Ceremony)
Calgary Multicultural Centre - National Consumer Week (Ed Chetner designated as Ombudsman's representative)
Sherwood Park and District Chamber of Commerce (luncheon)
Edmonton, Alberta Solicitor General - Provincial Corrections Conference
Calgary Inter-Faith Community Action Association
Edmonton, "K" Division Officers' Mess (Annual R.C.M.P. Officers' Regimental Dinner)
Leduc, Community Education Council (Presentation made by Diann Bowes)
Edmonton Men's Canadian Club

Edmonton, University of Alberta - Faculty of Extension - Police Challenge 2000 (moderator)
Red Deer, 14th Annual Elected Officials Symposium - Policing in Alberta: Year 2000 and Beyond (moderator)
Red Deer, 14th Annual Elected Officials Symposium - Role of Ombudsman
Athabasca University (staff)
Stony Plain Rotary Club
Edmonton Rotary Club
Edmonton, 1991-92 Legislative Internship Program
Pincher Creek Chamber of Commerce

Pincher Creek presentation (public)
Cardston presentation (public)
Fort MacLeod Chamber of Commerce
Fort MacLeod presentation (public)
Calgary, Alberta Seventh Step Society
Innisfail Rotary Club
Camrose Chamber of Commerce
Camrose Composite High School (students) - 2 presentations
Calgary, Administrative Management Society "Top Management Night"
Edmonton, Association for Summer Villages of Alberta (Annual Conference)
Vermilion, Lakeland College (staff/students)
Vermilion presentation (public)

Lloydminster, Lakeland College (staff/students)
Lloydminster presentation (public)
Fort Kent presentation (public)
St. Paul presentation (public)
Wainwright presentation (public)
Edmonton, The Banff School of Advanced Management (Chapter Alumni)
Edmonton, Alberta Health - Senior Executive Meeting - "The Role of the Ombudsman in Ensuring Public Accountability"

Edmonton, Alberta Arbitration and Mediation Society - "Dispute Resolution Alternatives in Professional Association"
Edson, Yellowhead Region Educational Consortium (students/staff)
Edson presentation (public)
Edmonton, Faculty of Law - Administrative Law Class (U of A) - Lecture by Linda Reif
Hinton, Yellowhead Region Educational Consortium (students/staff)
Hinton presentation (public - taped for T.V.)
Jasper, Junior and Senior High School (students)
Jasper presentation (public)
Grande Cache, Yellowhead Region Educational Consortium (students/staff)
Grande Cache presentation (public)

Calgary, Ninth Annual Crowd Management Seminar - Calgary Convention Centre
("key note speaker" at the opening ceremonies)
Mexico City, Human Rights Commission - Role of the Ombudsman
Southwest of Calgary, Red Deer Lake School (students) - 2 presentations
Black Diamond, C. Ian McLaren School (students)
Turner Valley School (students)
Black Diamond, Oilfields School (students)
Okotoks Rotary Club
Cayley School (students)
High River, Right Honourable Joe Clark School (students)
High River, Senator Riley School (students)

High River, Rotary Club
Okotoks, Foothills Composite School (students)
Okotoks, Good Shepherd School (students)
Spruce Grove, Athabasca University - Administrative Law Class
Edmonton, Public Service Managers

85 PRESENTATIONS with 5,330 attendees.

Media

C.F.G.P. Radio Station - Grande Prairie (interview)
Journalism student interview - Greg Maruszezka
Calgary Herald - Ron Collins (interview)
Wetaskiwin (radio talk show)
CHQR Radio - Re: Mount Royal College Presentation (interview)
Arizona Republic Newspaper - Phoenix, Arizona (telephone interview)
Red Deer Advocate (interview)
Native Perceptions - Lac La Biche (telephone interview)
The Edmonton Journal (interview)
Western Catholic Reporter (interview)

CJCA - Ron Collister Talk Show
CFRN - Insight Interview with Daryl MacIntyre (re: Annual Report and Role of the Ombudsman)
The John Hamelin Radio talk show (interview) - CBC Wildrose Program
Cardston Chronicle - Arnim Joop, Editor (interview)
CBC - Anne Petrie - Calgary (live interview and phone in talk show - CBC National T.V.)
CBC Television - Des Kilfoil (telephone interview)
The Edmonton Journal - Sherry Aikenhead (telephone interview)
CFRN TV News - Dave Gray (telephone interview)
CBC - Lionel Goddard (telephone interview)

Bonnyville Nouvelle - Janet Olson (2 interviews)
Calgary Herald - Carol House (telephone interview)
Edmonton Sun - David Bray (3 telephone interviews)
K-Lite - Grant Ainsley (taped interview)
Shaw Cable - Hinton - taped presentation at the Yellowhead Region Educational Consortium (public)
Edson, Yellowhead Radio
Radio Mexico (Human Rights & Ombudsman)
Okotoks - Cable 10 (presentation at Foothills Composite High School televised)
Calgary - 106 AM - Ed Green (telephone interview)

31 MEDIA INTERVIEWS or PRESENTATIONS.

Office of the Ombudsman

History of the Ombudsman's Office in Alberta

In 1965, the Government of Alberta was convinced of the need to establish a tribunal to assist people dissatisfied with the decisions or actions of departments and agencies of the government. In studying the issue, an independent committee, under the chairmanship of Mr. Carlton W. Clement, Q.C., identified a legitimate need to appoint a provincially legislated Commissioner. The Committee, after completing an extensive study and holding a number of public meetings, recommended an Ombudsman service be provided through the creation of an Office of the Ombudsman. The Legislative Assembly agreed and appointed the first Ombudsman for Alberta in 1967, the first such office in North America. While Alberta was the forerunner, every other province in Canada, with the exception of Prince Edward Island, has since followed Alberta's lead. Canada, as a result of Alberta's appointment of an Ombudsman, became the fourth Commonwealth country after New Zealand, Guyana and the United Kingdom to establish an Ombudsman's Office.

Mandate of the Ombudsman

The Ombudsman of Alberta is empowered by the Legislative Assembly with the authority to investigate complaints against departments, boards and agencies of the provincial government. This broad scope of authority has few limitations. Exempt from the Ombudsman's jurisdiction are the actions and decisions of the courts, the Legislature, government lawyers acting as solicitors for the Crown in a proceeding and the Mental Health Advocate. Complaints against federal or municipal governments fall outside the mandate of the Ombudsman's legislation.

Function of the Ombudsman

The primary purpose of the Ombudsman lies in providing impartial investigations on behalf of citizens who feel unjustly treated through the actions of departments, agencies or officials in the Government of Alberta. The Office of the Ombudsman also assists citizens in directing complaints to the appropriate contact, department or other complaint mechanism when the complaint is outside the Ombudsman's jurisdiction to investigate.

In addressing allegations of bureaucratic wrongdoing, the Office of the Ombudsman is established to serve as a complaint mechanism of last resort. This means the Ombudsman cannot intervene until all avenues of appeal have been exhausted by a complainant. For instance, many government departments, boards, and agencies have specific in-house methods of appeal designed to resolve complaints. These various complaint mechanisms are endorsed through legislation, regulation or policy to maintain internal systems within a particular government body. Citizens who have exhausted available avenues of appeal and remain dissatisfied with the outcome are encouraged to write to the Ombudsman.

Investigating complaints of bureaucratic wrongdoing is provided at no cost to the individual requesting service. The Ombudsman has an able staff composed of 11 investigators and 8 support staff. Offices are located in both Edmonton and Calgary. People living elsewhere in the province can easily access the Office, toll-free, through a R.I.T.E. operator or a Zenith number. All investigations are conducted in a confidential manner — a requirement of the **Ombudsman Act.**

A high priority is placed on being accessible to the people of Alberta. To fulfil this commitment, the Ombudsman, at times accompanied by his investigators, undertakes regular visits around the province. The purpose of these trips is to increase the awareness of the Ombudsman's Office and offer the Ombudsman's services locally. All investigative staff travel throughout the province dealing with investigations and meeting with complainants.

Profiles of the Ombudsmen Who Have Served Alberta

Photo credit:
Provincial Archives of Alberta
Public Affairs Bureau Collection
Photograph no. Pa.4356

GEORGE B. McCLELLAN
(1967 - 1974)

Alberta's first Ombudsman, George B. McClellan, held the position from September 1, 1967, to April 1, 1974. He was born in Moose Jaw, Saskatchewan in 1908.

Mr. McClellan entered the Royal Canadian Mounted Police in 1932 and served in British Columbia, Alberta, Saskatchewan and Nova Scotia. He rose through the ranks to become the Commissioner in 1963. Upon his retirement in 1967, he became Ombudsman.

Mr. McClellan focused on improving provincial government administration with a view to minimizing future repetitions of all injustices. He received considerable public acclaim in many cases due to the importance of the injustices that were rectified during his tenure.

The solid foundation established by Mr. McClellan has had a lasting impact. A number of legislative amendments to the **Ombudsman Act** lend testimony to the strong position Mr. McClellan held with respect to maintaining the necessary independence, particularly as it pertained to the provisions of confidentiality and secrecy. It was also at Mr. McClellan's insistence that the Legislative Assembly accepted the position that thorough investigations could only be conducted if the Ombudsman's authority was extended to allow complete access to all necessary file documentation from government departments and agencies.

Following his retirement as Ombudsman in 1974, the Premier of Alberta, Peter Lougheed, appointed Mr. McClellan Chairman of the Alberta Rent Regulation Appeal Board. In 1976, he was honoured by the Royal Military College with the Degree of Doctor of Laws. He was honoured with a similar degree in 1978 by the University of Alberta.

George McClellan passed away in Edmonton on July 19, 1982. He will be remembered for his pioneering work and the admirable manner in which he served as the first Ombudsman of Alberta and the first provincial Ombudsman in Canada.

DR. RANDALL E. IVANY
(1974 - 1984)

Dr. Ivany was appointed Alberta's second Ombudsman on May 1, 1974. He assumed the term of Office for five years and was re-appointed for a second term in 1979. A native of Newfoundland, he was born in 1933.

By profession Dr. Ivany was an electrical engineer prior to his decision to make a career move and study Theology at Wycliffe College. Subsequent to his Ordination in the Anglican Church, Dr. Ivany served parishes in Red Deer, Calgary and Oklahoma City. In 1969, he became Dean of All Saints Cathedral in Edmonton.

Dr. Ivany was active in various community activities, holding such positions as President of the Edmonton and District Council of Churches; member of the Planning Advisory Committee, Alberta Rehabilitation Council for the Disabled; member, Medical Ethics Committee, College of Physicians and Surgeons of Alberta; Director of the Winspear Foundation; and, President of the Muttart Foundation of Canada. Dr. Ivany also pioneered the development of the first senior citizens' high-rise apartment in Edmonton.

Keenly interested in promoting ombudsmanship on the international level, Dr. Ivany hosted the First International Ombudsman Conference at Government House in Edmonton during 1976. Present were 45 Ombudsmen representing 28 different countries. He travelled world wide, acting as a consultant to governments on public complaints and the role of the Ombudsman. In addition, he acted as a consultant for the Canadian International Development Agency (CIDA).

In 1985, Dr. Ivany was granted the Order of Canada by the Governor General of Canada, Her Excellency The Right Honourable Jeanne Sauve.

Randall Ivany passed away on September 24, 1988.

BRIAN SAWYER
(1984 - 1987)

Mr. Sawyer served as Alberta's third Ombudsman for the period September 1, 1984, to May 15, 1987. He was born in Montreal in 1930.

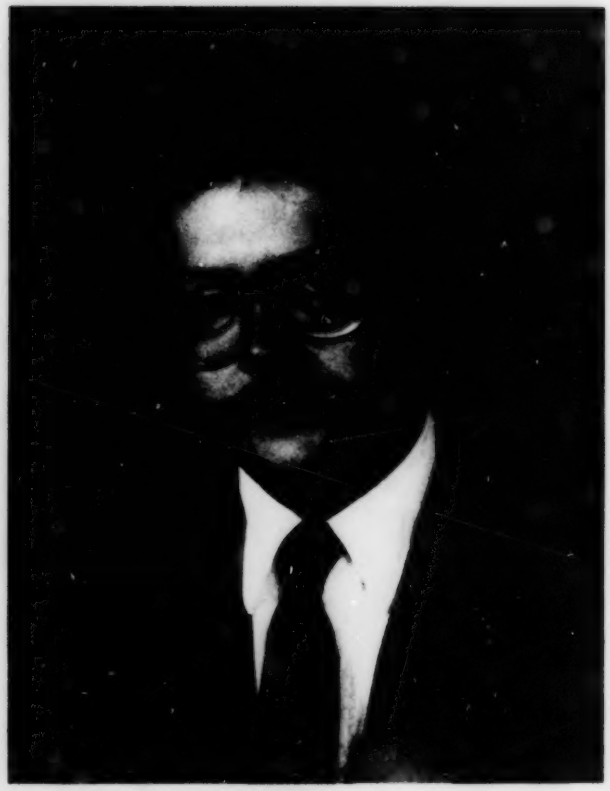
Over the span of his career, Mr. Sawyer obtained a Bachelor of Commerce degree from Concordia University. He also graduated from the Canadian Police College and the F.B.I.'s National Executive Institute.

In 1951, Mr. Sawyer joined the Royal Canadian Mounted Police where he remained for more than 21 years. During that time, he maintained various field, staff, instructional and command positions in various parts of Canada. He retired as Superintendent in the Federal Force.

Mr. Sawyer was chosen to command the Calgary Police Service in 1972. While holding that position, he proposed considerable management changes emphasizing the decentralization of the Police Service and cooperation between the police and the public. Mr. Sawyer was instrumental in the development of a number of programs in Crime Prevention, Criminal Apprehension, and Victim Assistance. After approximately 12 years as Chief of Police in Calgary, Mr. Sawyer accepted the responsibility of Ombudsman.

As Ombudsman, Mr. Sawyer promoted a system whereby, once the Ombudsman had decided to investigate, investigators would carry out the active management of those investigations and conclude the complaint with a recommendation to the Ombudsman. He also encouraged investigators to informally resolve complaints, on an entrepreneurial basis, by referral, negotiation, or mediation in order to obtain immediate resolution.

In 1987, Mr. Sawyer left the Office of the Ombudsman to join Canadian Airlines International as Director of Corporate Security.



ALECK H. TRAWICK
(1987 - 1989)

Mr. Trawick was selected for the position of Ombudsman in October of 1987 and thus became the fourth Ombudsman for the Province of Alberta. Mr. Trawick was born in Regina in 1945.

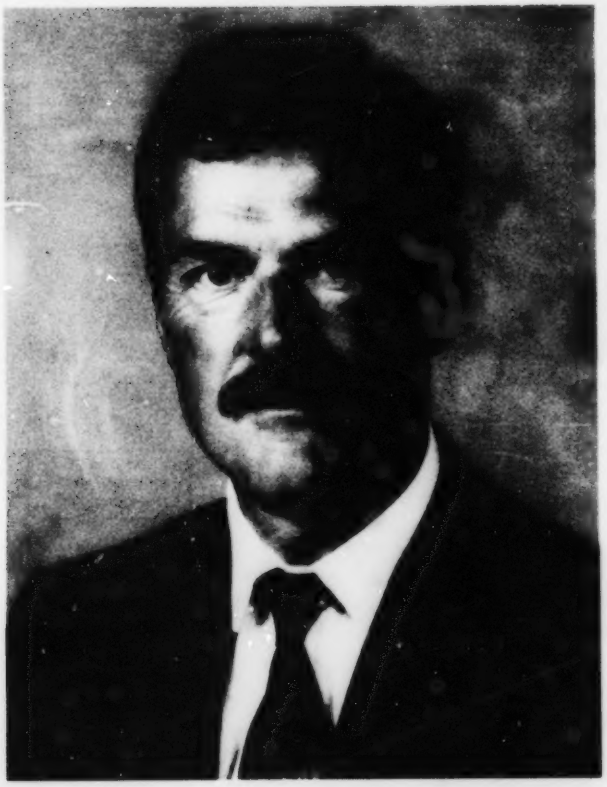
Graduating in 1969 with a Bachelor of Law degree from the University of Saskatchewan, Mr. Trawick began practising law in Calgary. His practice extended throughout all levels of court in Alberta and Manitoba, as well as the Federal Court and the Supreme Court of Canada.

Mr. Trawick has been involved in various levels of the Law Society of Alberta and the Canadian Bar Association, from instructing civil litigation courses for the Bar Admission Course to chairing and sitting on a number of advisory committees. Government appointments, other than that of the Ombudsman, include Chairman, Review Panel, **Mental Health Act**; and member and founding Vice-Chairman of the Calgary and Regional Mental Health Advisory Council.

Mr. Trawick has also been involved in several community and charitable organizations. Most notable is his extensive work with the Canadian Mental Health Association at the local, provincial and national level.

As Ombudsman, Mr. Trawick personally conducted a major investigation into complaints against the Alberta Securities Commission. He led the two-year investigation into the government's role in the collapse of the Principal Group of Companies. The investigation was complex and involved an in-depth examination of the entire regulatory system of all financial institutions in Alberta over the past 30 years. The report contained numerous recommendations which supported the need for improving regulatory control for investors within the province.

Mr. Trawick left the position as Ombudsman in 1989. He is presently a partner in the international law firm of Blake, Cassels and Graydon located in Calgary.



HARLEY A. JOHNSON
(1990 - Present)

Mr. Johnson was appointed as Alberta's fifth Ombudsman on February 1, 1990. He was born in Vancouver in 1944.

After a short stint with the Royal Canadian Army, Canadian Provost Corps., Mr. Johnson joined the Calgary Police Service in 1965 and remained with that Service until 1990. He held various appointments, retiring as Superintendent of Information Services. While employed with the Calgary Police Service, Mr. Johnson obtained a Certificate in Criminal Justice in 1973 from Mount Royal College, a Bachelor of Arts Degree in 1975 and a Master's Degree in Public Administration in 1976 from Queen's University at Kingston.

Mr. Johnson was seconded from the Calgary Police Service in 1986 to assume the position of Manager of Olympic Security for the XV Olympic Winter Games Organizing Committee. As such, he managed all aspects of the Organizing Committee's security requirements which involved training and advising all staff, volunteers, and contractors of security issues; reviewing all security plans; and acting as media spokesperson on security-related issues. He returned to the Calgary Police Service in 1988.

Mr. Johnson has had extensive experience in instructing in the areas of Human Resource Development, Criminal Law, Cross-Cultural Relations, and Individual Rights. He has instructed for a number of organizations including the University of Alberta, the University of Calgary, Mount Royal College, Parks Canada, Parks Alberta, Alberta Solicitor General, and the Canadian Police College in Ottawa.

Mr. Johnson's objectives while in Office include: promoting public awareness of Ombudsman services; increasing the skill level of managers, investigators and the administrative support staff; implementing and upgrading office automation; and, concentrating on informally resolving complaints using a facilitative approach. He is in the process of developing a system whereby causes of complaints may be identified and possibly corrected before they become complaints.

Organizational Chart

Legislative Assembly

Standing Committee
on
Legislative Offices

Ombudsman

Harley Johnson

Secretary to the Ombudsman

Helen Campbell

Director: Finance and Administration

Dixie Watson

Finance & Administration Clerk

Beth Staden

Supervisor, Administration

Lynn Scott

Administration Clerks

Marilyn Strohschein

Ella-Rae Trelenberg

Carolyn OpdenDries

Director: Investigative Services (Northern Region)

Brian Carver

Ombudsman Investigators

Diann Bowes

Dan Johns

Jackie Dallman

John Hillary

Jim French

Director: Legal Services

Linda Reif

Director: Operational Services (Southern Region)

Ed Chetner

Ombudsman Investigators

Gordon Schlagel

Dale Hensley

Supervisor, Administration

Anna Moline

Administration Clerk

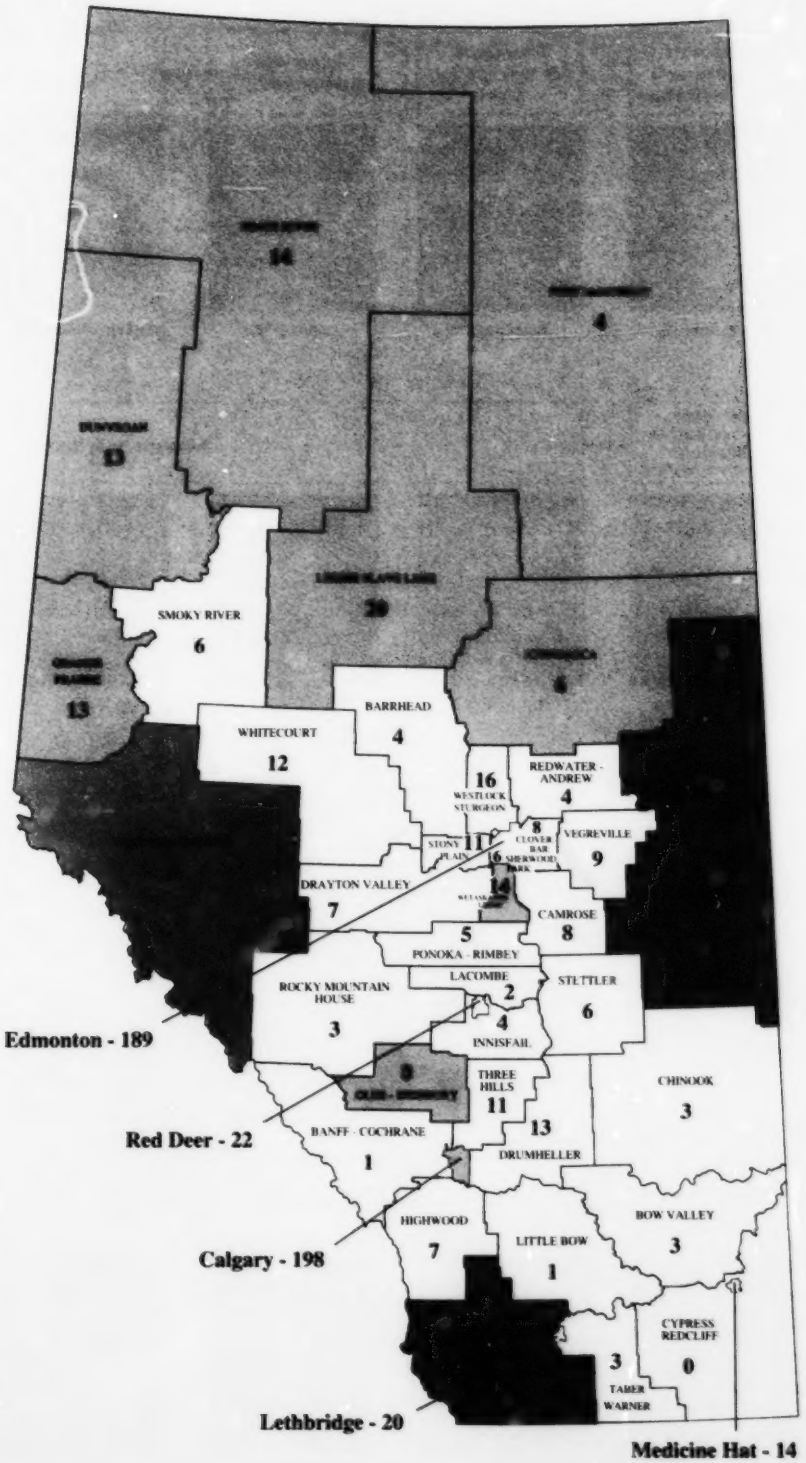
Kim Griffith

Geographic Location Of Complaints

Note: To increase public awareness of the services provided by the Office of the Ombudsman, Mr. Johnson has undertaken to make at least one public presentation in each of the electoral divisions during his five-year term as Ombudsman. The shading on the map illustrates the extent to which this objective has been met in his first two years in Office.

1990

1991



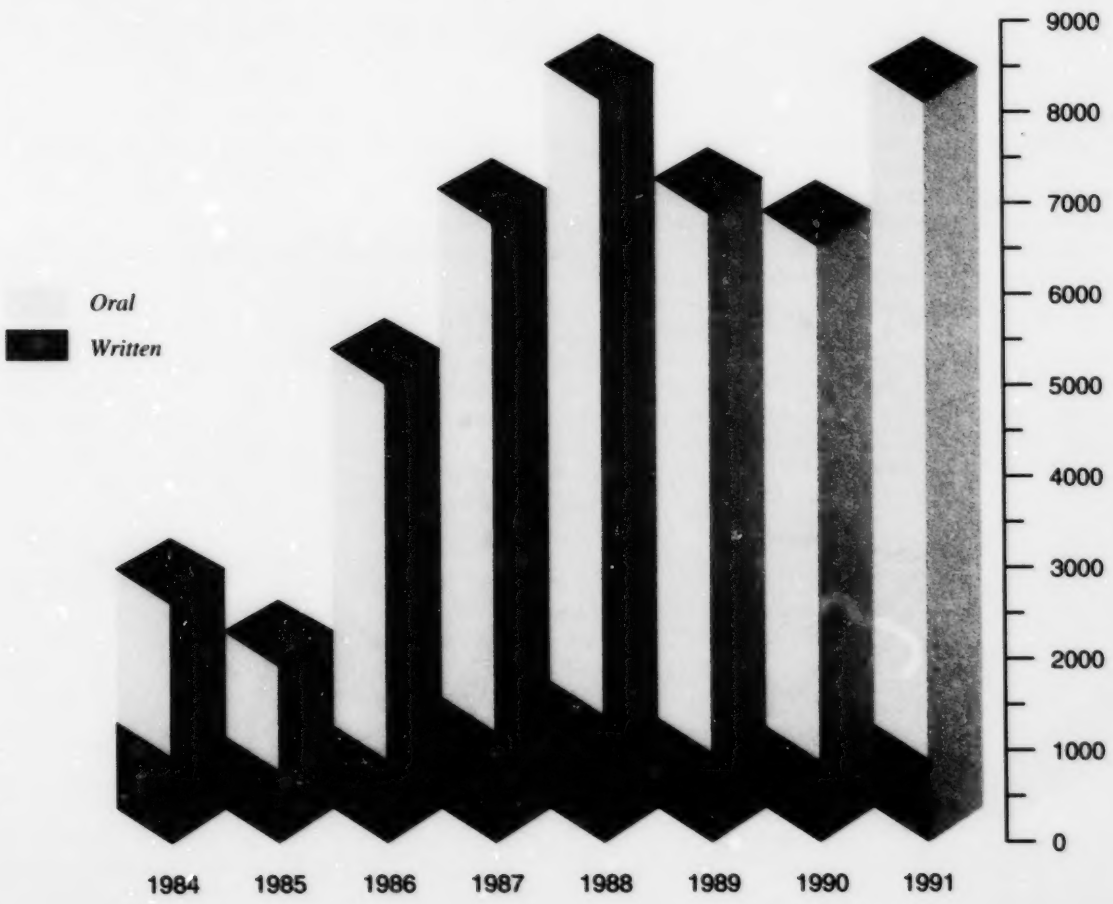
Provincial Electoral Divisions

The figures on the map refer to written complaints received in 1991 and do not include complaints that originated in provincial correctional institutions (114), federal penitentiaries (6), mental hospitals (2) and other provinces and countries (60).

Types of Complaints

Year	Written	Oral	Total
1984	986	1600	2586
1985	817	1104	1921
1986	915	4171	5086
1987	1219	5585	6804
1988	1411	6797	8208
1989	988	5958	6946
1990	923	5674	6597
1991	916	7187	8103

The total number of complaints received during 1991 took a pivotal upward swing to reflect an increase of 23% over the number of complaints received during 1990. In reviewing the statistics for the past 10 years, the volume of complaints handled in 1991 is second only to 1988 - a year in which multiple numbers of similar complaints were received with respect to the collapse of the Principal Group of Companies.



Handling of Oral Complaints Received During 1991

Jurisdictional	
Referred to Appropriate Authority or Appeal	1771
Resolved to Complainant's Satisfaction	299
No Remedy Available	93
Advised to Write the Ombudsman	347
Non-Jurisdictional	
Referred or Assistance Provided	4677

The number of oral complaints rose sharply from 5,674 during 1990 to 7,187 in 1991, establishing an all-time record.

Requests for information and complaints about matters outside the jurisdiction of the Office account for 65% of the telephone calls received during 1991. In these circumstances, the Office of the Ombudsman serves as a liaison by conveying correct information or referring the callers to the appropriate person, department, or other complaint mechanism.

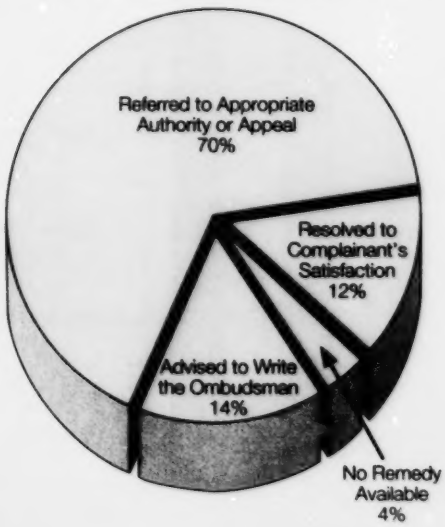
The remaining 35% of oral complaints were from callers registering grievances about the actions of the government which fall within the jurisdiction of the Ombudsman. Callers who have exercised the existing avenues of appeal and remain dissatisfied with government actions or decisions are advised to submit a written letter of complaint to the Ombudsman. Callers who have not exercised the appeal rights are given the relevant information to enable them to do so. In addressing allegations of bureaucratic wrongdoing, the Office of the Ombudsman is established to function as a complaint mechanism of last resort.

Handling of Written Complaints Received During 1991

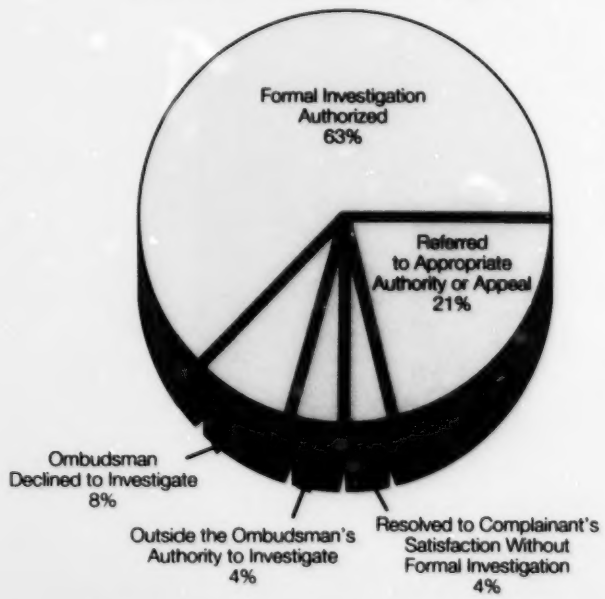
Jurisdictional	
Referred to Appropriate Authority or Appeal	171
Resolved to Complainant's Satisfaction Without Formal Investigation	34
Outside the Ombudsman's Authority to Investigate	29
Ombudsman Declined to Investigate	61
Formal Investigation Authorized	505
Action Pending	6
Non-Jurisdictional	
Referred or Assistance Provided	110

The degree of variation between the number of written complaints received during 1991 and 1990 is minimal. Of importance, however, is the fact that the number of jurisdictional complaints accepted for formal investigation did grow 12% compared to 1990. In actual numbers, this means an additional 53 full investigations were authorized during 1991.

Oral Jurisdictional Complaints


Referred to Appropriate Authority or Appeal 70%
Resolved to Complainant's Satisfaction 12%
Advised to Write the Ombudsman 14%
No Remedy Available 4%

Written Jurisdictional Complaints


Formal Investigation Authorized 63%
Referred to Appropriate Authority or Appeal 21%
Ombudsman Declined to Investigate 8%
Outside the Ombudsman's Authority to Investigate 4%
Resolved to Complainant's Satisfaction Without Formal Investigation 4%

Action Taken on Jurisdictional Files Closed During 1991.

Files Carried Over From Previous Years		**213**
Files Opened During 1991		**804**
Investigated		**435**
Subsequently Discontinued	53	
Complaint Supported	100	
Complaint Not Supported	282	
Not Investigated		**295**
Resolved Informally	34	
No Authority to Investigate	29	
Other Remedy or Appeal Available	171	
Declined on Discretionary Grounds	61	
Files Closed During 1991		**730**
Files Carried Over to 1992		**287**

While most of these terms are self explanatory, it is important to understand their meaning.

Subsequently Discontinued. Formal investigations, once commenced, may be discontinued by either the complainant or the Ombudsman. Such action is usually the consequence of either learning that a department, on being notified of a complaint, has taken immediate steps to resolve it, or on receipt of information indicating further investigation is unnecessary.

Complaint Not Supported. This means that no administrative or procedural error on the part of the department or agency has been found. The fact that the department or agency acted appropriately, and why, is explained in each case to the complainant. Very often, such detailed attention and explanation satisfies the complainant. Providing this service is a very important function of the Office.

Other Remedy or Appeal Available. This means there exists a specific appeal of the decision or action complained of which could grant immediate relief to the complainant. In each such case, the nature of the appeal was explained to the complainant, in writing, at the time the investigation was declined. The complainant was also advised that if he or she remained dissatisfied as a result of the appeal, a letter of complaint should be sent to the Ombudsman.

Declined on Discretionary Grounds. Complaints declined on discretionary grounds are those, which under section 14(2) of the **Ombudsman Act**, the Ombudsman declines to investigate because the matter complained of has been known to the complainant for more than twelve months; the subject matter of the complaint is trivial; the complaint is frivolous or vexatious or is not made in good faith; or, the complainant does not have a sufficient personal interest in the subject matter of the complaint.

The 435 jurisdictional complaints investigated during 1991 remains precisely the same as the 1990 figure. The 295 jurisdictional complaints not investigated declined somewhat from 326 in 1990.

Unsupported complaints (the complaints for which no government administrative error is found) outnumber the supported complaints (the complaints in which a government administrative error did occur) by a ratio of three to one. Evidence of government error is not overwhelming, but the statistics indicate the ongoing need to scrutinize the government's administrative activities on behalf of the citizens served.

Length of Time to Resolve Complaints

The principles governing the investigation of a complaint are twofold: (1) a comprehensive examination of all the pertinent factors occur, and (2) the outcome of each investigation is reached in a fair and impartial manner. Of primary concern is the investigative criteria; of secondary importance is the timeliness of an investigation. The length of time taken to complete investigations in 1991 ranged from one day to 1242 days. The majority of complaints, however, were completed between two and six months. While the Office strives to complete investigations within a three-month time frame, the complexity of some issues takes a considerable length of time. The time factor, while important, cannot be allowed to compromise the integrity of an investigation.

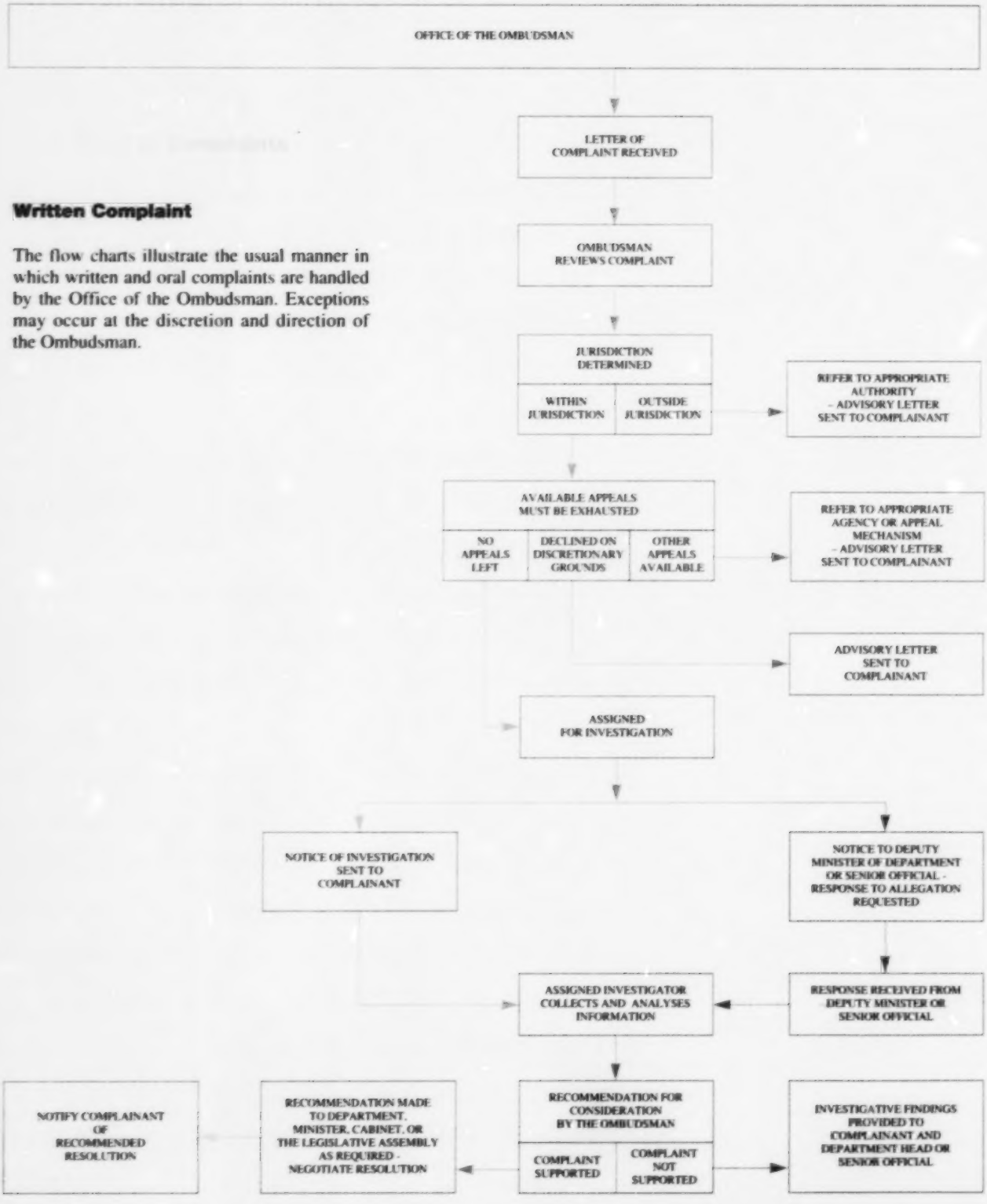
Department	PREVIOUSLY OPENED FILES	FILES OPENED 1991	INVESTIGATED TOTAL	SUBSEQUENTLY DISCONTINUED	COMPLAINT SUPPORTED	COMPLAINT NOT SUPPORTED
ADVANCED EDUCATION	2	8	4	0	1	3
AGRICULTURE	2	12	10	2	5	3
ATTORNEY GENERAL	17	42	19	3	3	13
CAREER DEVELOPMENT AND EMPLOYMENT	3	4	4	0	2	2
CONSUMER AND CORPORATE AFFAIRS	3	10	6	0	0	6
CULTURE AND MULTICULTURALISM	1	7	2	1	0	1
ECONOMIC DEVELOPMENT AND TRADE	1	4	3	0	0	3
EDUCATION	2	6	3	0	2	1
ENERGY	1	2	2	0	0	2
ENVIRONMENT	3	16	5	0	0	5
FAMILY AND SOCIAL SERVICES	66	184	125	21	39	65
FORESTRY, LANDS AND WILDLIFE	5	17	10	2	3	4
HEALTH	12	33	9	3	1	5
LABOUR	2	14	7	1	1	5
MUNICIPAL AFFAIRS	3	22	9	2	3	4
PUBLIC WORKS, SUPPLY AND SERVICES	2	7	2	0	0	2
RECREATION AND PARKS	0	3	1	0	0	1
SOLICITOR GENERAL	3	17	5	2	2	1
Correctional Services	25	140	82	10	21	51
TOURISM	0	2	0	0	0	0
TRANSPORTATION AND UTILITIES	4	15	10	1	1	8
TREASURY	4	9	3	1	0	4
TOTAL: Departments	**181**	**574**	**320**	**50**	**76**	**194**
Boards & Agencies						
AGRICULTURAL DEVELOPMENT CORPORATION	0	7	2	0	0	2
ALBERTA ALCOHOL & DRUG ABUSE COMMISSION	2	0	2	0	1	1
ALBERTA GOVERNMENT TELEPHONES	0	4	0	0	0	0
ALBERTA LABOUR RELATIONS BOARD	0	1	1	0	0	1
ALBERTA LIQUOR CONTROL BOARD	1	4	1	0	0	1
ALBERTA MORTGAGE & HOUSING CORPORATION	1	0	1	0	1	0
ALBERTA RESEARCH COUNCIL	1	0	1	0	0	1
ENERGY RESOURCES CONSERVATION BOARD	3	2	3	0	2	1
EXECUTIVE COUNCIL	1	1	1	0	0	1
HUMAN RIGHTS COMMISSION	0	6	2	1	0	1
OCCUPATIONAL HEALTH & SAFETY	3	0	3	0	0	3
OFFICES OF THE LEGISLATIVE ASSEMBLY	0	1	0	0	0	0
PERSONNEL ADMINISTRATION OFFICE	2	2	2	0	0	2
PUBLIC SAFETY SERVICES	1	2	3	0	0	3
TEACHERS' RETIREMENT FUND	0	2	0	0	0	0
TREASURY BRANCHES	2	3	3	1	1	1
WORKERS' COMPENSATION BOARD	35	195	0	0	0	0
TOTAL: Boards & Agencies	**52**	**230**	**118**	**3**	**24**	**88**
TOTAL	213	804				

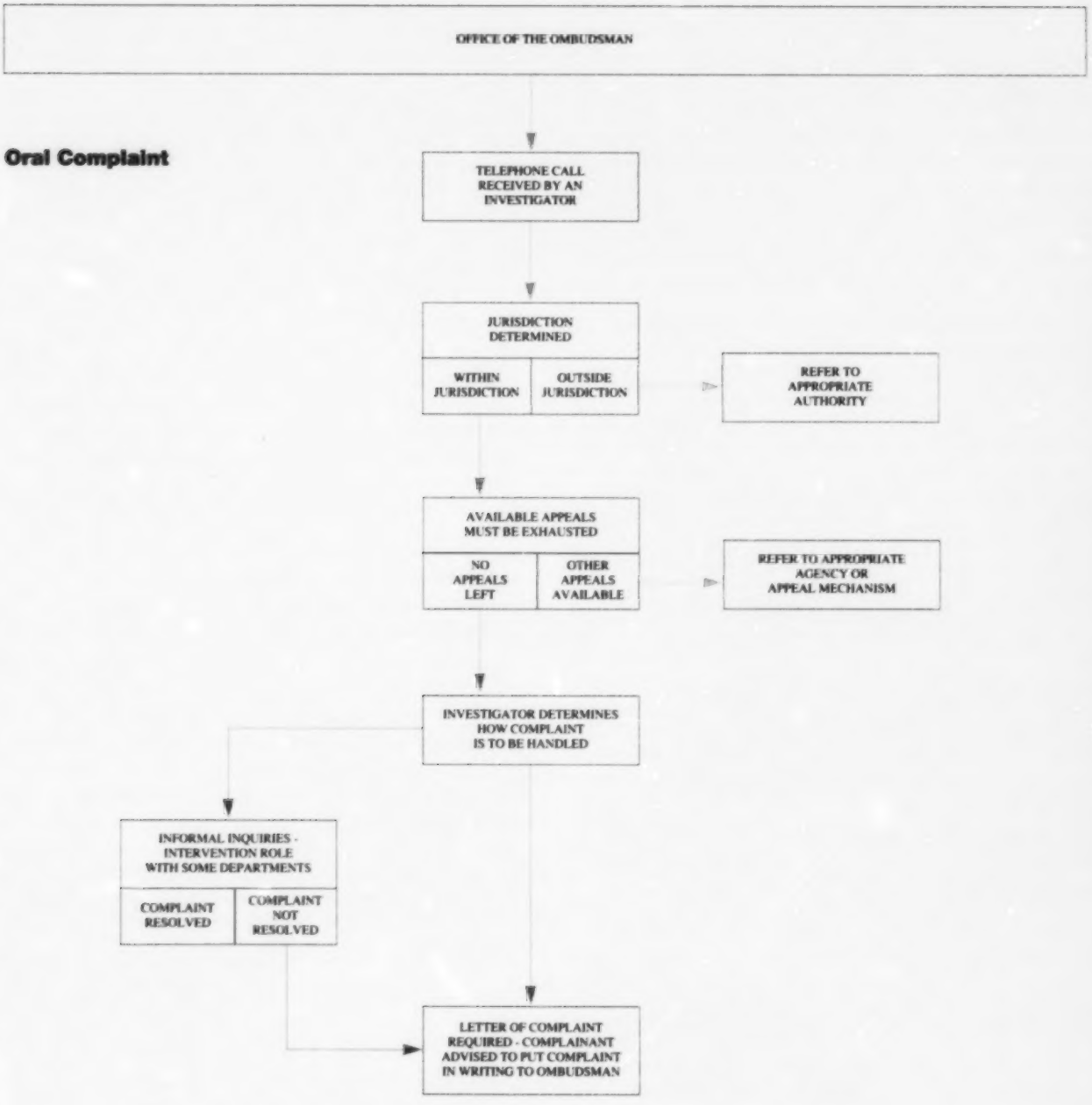
TOTAL NOT INVESTIGATED	RESOLVED INFORMALLY	NO AUTHORITY TO INVESTIGATE	OTHER REMEDY OR APPEAL AVAILABLE	DECLINED ON DISCRETIONARY GROUNDS	CLOSED IN 1991	CARRIED FORWARD TO 1992	ACTION PENDING	Department
4	1	0	3	0	8	2	0	**ADVANCED EDUCATION**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	13	1	0	AGRICULTURE
18	2	4	7	5	37	22	0	**ATTORNEY GENERAL**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	5	2	0	CAREER DEVELOPMENT AND EMPLOYMENT
5	0	2	3	0	11	2	0	**CONSUMER AND CORPORATE AFFAIRS**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	5	3	0	CULTURE AND MULTICULTURALISM
1	0	0	0	1	4	1	0	**ECONOMIC DEVELOPMENT AND TRADE**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	4	4	0	EDUCATION
1	0	0	0	1	3	0	0	**ENERGY**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	14	5	0	ENVIRONMENT
55	7	5	32	11	180	70	2	**FAMILY AND SOCIAL SERVICES**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	15	7	0	FORESTRY, LANDS AND WILDLIFE
13	3	0	8	2	22	23	0	**HEALTH**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	12	4	0	LABOUR
8	1	0	5	2	17	8	1	**MUNICIPAL AFFAIRS**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	6	3	0	PUBLIC WORKS, SUPPLY AND SERVICES
0	0	0	0	0	1	2	0	**RECREATION AND PARKS**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	14	6	1	SOLICITOR GENERAL
57	12	1	33	11	139	26	1	**Correctional Services**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2	0	0	TOURISM
6	1	0	3	2	16	3	0	**TRANSPORTATION AND UTILITIES**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	10	3	0	TREASURY
218	**30**	**20**	**117**	**51**	**538**	**197**	**5**	**Departments: TOTAL**
								Boards & Agencies
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	6	1	0	AGRICULTURAL DEVELOPMENT CORPORATION
0	0	0	0	0	2	0	0	**ALBERTA ALCOHOL & DRUG ABUSE COMMISSION**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	4	0	0	ALBERTA GOVERNMENT TELEPHONES
0	0	0	0	0	1	0	0	**ALBERTA LABOUR RELATIONS BOARD**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2	3	0	ALBERTA LIQUOR CONTROL BOARD
0	0	0	0	0	1	0	0	**ALBERTA MORTGAGE & HOUSING CORPORATION**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	0	0	ALBERTA RESEARCH COUNCIL
1	0	0	1	0	4	1	0	**ENERGY RESOURCES CONSERVATION BOARD**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	2	0	0	EXECUTIVE COUNCIL
4	0	0	1	3	6	0	0	**HUMAN RIGHTS COMMISSION**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	3	0	0	OCCUPATIONAL HEALTH & SAFETY
0	0	0	0	0	0	1	0	**OFFICES OF THE LEGISLATIVE ASSEMBLY**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	4	0	0	PERSONNEL ADMINISTRATION OFFICE
0	0	0	0	0	3	0	0	**PUBLIC SAFETY SERVICES**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	1	1	0	TEACHERS' RETIREMENT FUND
0	0	0	0	0	3	2	0	**TREASURY BRANCHES**
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	149	81	1	WORKERS' COMPENSATION BOARD
77	**3**	**9**	**54**	**10**	**192**	**90**	**1**	**Boards & Agencies: TOTAL**
[illegible]					**730**	**287**	**6**	TOTAL

Method of Handling Complaints

Written Complaint

The flow charts illustrate the usual manner in which written and oral complaints are handled by the Office of the Ombudsman. Exceptions may occur at the discretion and direction of the Ombudsman.


OFFICE OF THE OMBUDSMAN
LETTER OF COMPLAINT RECEIVED
OMBUDSMAN REVIEWS COMPLAINT
JURISDICTION DETERMINED
WITHIN JURISDICTION
OUTSIDE JURISDICTION
REFER TO APPROPRIATE AUTHORITY - ADVISORY LETTER SENT TO COMPLAINANT
AVAILABLE APPEALS MUST BE EXHAUSTED
NO APPEALS LEFT
DECLINED ON DISCRETIONARY GROUNDS
OTHER APPEALS AVAILABLE
REFER TO APPROPRIATE AGENCY OR APPEAL MECHANISM - ADVISORY LETTER SENT TO COMPLAINANT
ADVISORY LETTER SENT TO COMPLAINANT
ASSIGNED FOR INVESTIGATION
NOTICE OF INVESTIGATION SENT TO COMPLAINANT
NOTICE TO DEPUTY MINISTER OF DEPARTMENT OR SENIOR OFFICIAL - RESPONSE TO ALLEGATION REQUESTED
ASSIGNED INVESTIGATOR COLLECTS AND ANALYSES INFORMATION
RESPONSE RECEIVED FROM DEPUTY MINISTER OR SENIOR OFFICIAL
NOTIFY COMPLAINANT OF RECOMMENDED RESOLUTION
RECOMMENDATION MADE TO DEPARTMENT, MINISTER, CABINET, OR THE LEGISLATIVE ASSEMBLY AS REQUIRED - NEGOTIATE RESOLUTION
RECOMMENDATION FOR CONSIDERATION BY THE OMBUDSMAN
COMPLAINT SUPPORTED
COMPLAINT NOT SUPPORTED
INVESTIGATIVE FINDINGS PROVIDED TO COMPLAINANT AND DEPARTMENT HEAD OR SENIOR OFFICIAL


OFFICE OF THE OMBUDSMAN
Oral Complaint
TELEPHONE CALL RECEIVED BY AN INVESTIGATOR
JURISDICTION DETERMINED
WITHIN JURISDICTION
OUTSIDE JURISDICTION
REFER TO APPROPRIATE AUTHORITY
AVAILABLE APPEALS MUST BE EXHAUSTED
NO APPEALS LEFT
OTHER APPEALS AVAILABLE
REFER TO APPROPRIATE AGENCY OR APPEAL MECHANISM
INVESTIGATOR DETERMINES HOW COMPLAINT IS TO BE HANDLED
INFORMAL INQUIRIES - INTERVENTION ROLE WITH SOME DEPARTMENTS
COMPLAINT RESOLVED
COMPLAINT NOT RESOLVED
LETTER OF COMPLAINT REQUIRED - COMPLAINANT ADVISED TO PUT COMPLAINT IN WRITING TO OMBUDSMAN

Investigative Summaries

The following investigative summaries illustrate the nature and variety of complaints dealt with during 1991. Although the complaints are grouped by department, they have been chosen to reflect typical matters of dispute between citizens and the bureaucracy that may generally arise in any department of the government. Complaints against government departments may take the form of formal complaints, some of which result in a departmental policy or procedural change, and informal complaints or requests for information.

Formal investigations occur as a result of four different sets of circumstances: (1) a written letter of complaint (2) the Ombudsman's "own motion" (3) a Ministerial request or (4) a referral from any committee of the Legislative Assembly. An "own motion" investigation refers to instances in which the Ombudsman, on his own initiative, decides to investigate an issue. The primary aim of an investigation is to resolve situations where citizens have been adversely and unfairly affected by the administration of government. Often in the course of an investigation, a need is identified for departmental policies or procedures to be revised to provide a more equitable method of dealing with issues. In these instances, the Ombudsman acts as a catalyst for positive change.

It is misleading to view the Office of the Ombudsman solely as a formal investigator of complaints. Many telephone calls and letters are most appropriately dealt with on an informal basis rather than becoming the subject of a protracted investigation. Such informal resolution of complaints entails (1) providing information to people who call, or (2) informally mediating between the complainant and the department official. For those complaints that can be resolved informally, the value lies in providing a more expeditious service to the public. The following is but one example of how a telephone complaint can be successfully resolved:

■ A complainant and the common-law spouse of the complainant separated, with one partner returning to Ontario. The children remained with the partner in Alberta, who six months later abandoned the children and disappeared. The complainant was notified of a custody hearing by Child Welfare and flew out from Ontario to attend the hearing. It was found that the process was going to become protracted because the judge ordered the Department of Family and Social Services to attempt to locate the partner who disappeared and that psychological evaluations be done on both partners. The complainant left a job in Ontario, moved to Alberta, found employment, and rented a three bedroom apartment in anticipation of the return of the children. Six months passed since the initial court hearing, with no action taken. The children had been placed in their fourth foster home. The parent contacted the Office of the Ombudsman out of concern for the children.

The Office of the Ombudsman contacted the Assistant Manager, Children in Care, who agreed to review the case with the case worker. Through the assistance of this office, the children were returned to their parent immediately, once the Department was made aware of the delays.

Departments

Advanced Education

■ Students at an Alberta Vocational College had the understanding that funding would be made available to them to take a course. The funding was subsequently refused. The students had enroled in the program, only to learn that two government departments disagreed as to whether the students qualified for funding. The Ombudsman was able to establish that information given by an advisor at Alberta Vocational College was incorrect.

Although the Ombudsman was not able to get funding from the original source, the students were able to complete their program by having tuition fees waived.

Attorney General

■ The complainant, known as the creditor, was experiencing difficulty receiving maintenance payments from the former spouse. Although the former spouse had a number of Registered Retirement Savings Plans (RRSP), which was known by the Maintenance Enforcement Program (MEP), for some reason, MEP decided not to pursue RRSP seizure through the court process. The complainant felt this was very unfair. The Office of the Ombudsman was concerned that MEP was not pursuing the avenue of accessing RRSP funds which it could do through the courts.

As a result of the investigation, the error was corrected in this situation as well as changes to policy and procedure. The MEP advised that, in the future, it would pursue the seizure of RRSP's held by the debtor.

Education

■ Parents complained to the Ombudsman that they had been denied a proper review of a request for special education program funds for their child.

When the investigation was initiated, there was found to be insufficient documentation to prove the review was thorough. The Department agreed the review was inadequate, promising to conduct another review.

The review was one of the first conducted under the new **School Act**. As a result of the Ombudsman's investigation and other problems the Department has encountered in conducting reviews, a workshop to formalize better ways of conducting reviews has been held by the Department.

Environment

■ Complainants first approached the Ombudsman in 1982 and an investigation at that time recommended certain steps be taken to alleviate flooding from a creek running through their farmland. The flooding had increased over the years by nearby urban development which had been approved by the Department. The suggested improvements, beaver control and changes in how the nearby municipalities discharged water, did not improve the situation. The complainants returned to the Ombudsman.

The investigation showed that the Department now considered purchase of the low land as the only permanent solution, and the Ombudsman supported that idea. Unfortunately, there was no agreement on what the land was worth. The Ombudsman removed himself from the negotiations because he could not impose a settlement on either party. The Ombudsman advised the landowners to hire professional assistance in evaluating the land and to negotiate with the government.

■ The complainant said both the departments of Environment and Forestry, Lands and Wildlife had promised to hold public meetings before a project using chemical pesticides on a forest was approved, but no public meeting took place. The investigation showed there was no need in law or regulation for the type of input the complainant had in mind, but in fact the departments had promised to consult the public in this case.

Inquiries revealed the departments did listen to the public comments and did change the licensing and monitoring requirements to account for some of the points made by the complainant. The complainant was unaware of this because the timing of the issuance of the licenses made it appear they were issued before all the public input had been reviewed. The Ombudsman also agreed the way the departments used the terms "public meeting" and "open house" was confusing. Although there may be no legal distinction, the Ombudsman found there was a distinction in most people's minds. A public meeting is a more businesslike affair with records kept and presentations made. An open house is more social and less formal.

The Ombudsman made three recommendations which might improve the public involvement process in the future. These were that more time be left for public input where possible; that terms used to announce requests for input from the public be more specific to reflect the intent; and that the departments be open to an approach from the complainant as to how environmental groups should be informed of government projects.

Family and Social Services

■ An individual who was the recipient of Assured Income for the Severely Handicapped (AISH) benefits initiated a complaint against the Department. Specifically, the complainant was informed by a member of the Department that a person could collect a retroactive lump sum Canada Pension Plan Disability benefit in addition to the AISH benefits.

The Department changed the policy, calling for the retroactive lump sum payment from Canada Pension Plan to be collected, but failed to notify the complainant. As a principle of basic fairness, the Ombudsman felt a notice of policy change which affects benefit entitlement should be made to an individual prior to the introduction of the policy. The Department agreed, having now put this policy into practice. As a result of this investigation, the complainant was allowed to keep the retroactive lump sum Canada Pension Plan Disability benefit and, as well, receive benefits from AISH.

■ A single person, near retirement age, complained that the benefits received in Alberta were not equivalent to what the same individual had been receiving in Saskatchewan. Upon investigation, it was confirmed that the person was receiving the maximum monthly assistance available in Alberta and, in addition, had been granted extra funds for special needs such as furniture.

The Ombudsman could not support the complaint or assist the person in receiving higher benefits; but, in the course of the investigation, he became aware of irregularities in the Citizens' Appeal Panel hearing process. Informal inquiries led the Ombudsman to believe that, on occasion, appellants were asked to leave the room while Department representatives stayed. Also, on occasion, the Citizen's Appeal Panel called Department witnesses back into the room without bringing the complainant back as well. After being contacted by the Ombudsman, the Appeals Secretariat agreed to counsel the Appeal Panel involved.

■ Although complainants appealed the actions of the Department to the Child Welfare Appeal Panel and the decision was awarded in their favour, the Department took the decision to the Court of Queen's Bench. The Court reinstated the Department's original decision.

As this was the first case taken to court under the new **Child Welfare Act**, substantial legal bills were incurred by the complainants while procedure was being argued. The complainants stated the Department and the courts "established procedure out of our pocketbook." The Ombudsman contacted the Department who agreed and

reimbursed the complainants' costs associated with establishing procedures through an ex gratia payment. Total costs were in the thousands of dollars and the ex gratia payment covered about a third of the total.

The complainant was denied handicapped income benefits under the **Assured Income for the Severely Handicapped Act**. The individual complained of being wrongly denied these benefits. The investigation did not find evidence to support the complainant. Information was shared with the complainant as to why the criteria under the regulations were not met.

During the course of the investigation, it was found that the pamphlet issued by the Department of Family and Social Services listing the criteria for qualification under the **Assured Income for the Severely Handicapped Act** was not completely in concert with the Act. As a result of negotiations, the Department agreed that in the future printing of the pamphlet, the wording will be more reflective of the regulations pursuant to the Act.

A complainant alleged social assistance benefits were wrongfully denied. The Appeal Panel upheld the decision, but the complainant felt the Panel was biased. The Appeals Secretariat agreed with the complainant's position and arranged for a second Appeal Panel. This Appeal Panel, based in part on new evidence, reversed the previous decision and directed the Department to pay benefits retroactively. The Appeal Panel based its decision on the Department's lack of documentation to support its decision and the fact the appellant was hospitalized and therefore unemployable.

Despite the Appeal Panel's decision, the District Office refused to issue benefits to the appellant until certain issues within the Appeal Panel's decision were clarified. The Department's written policy is clear that once a decision is rendered by the Appeal Panel, the Department must implement the decision immediately unless the decision is contrary to legislation. In this circumstance, the delay was unreasonably long and unwarranted, and when brought to the attention of the District Office Manager by the Office of the Ombudsman, a special cheque was issued, resolving the problem.

An individual complained of inaction by the Department of Family and Social Services on a report that children in the family were at risk. Information was given to the Department indicating the children were not being properly cared for, and they had been returned to an abusive situation in the home.

The Ombudsman concluded his investigation supporting the complaint. The Ombudsman was particularly concerned with the very serious issues identified by one district office indicating the children were at risk, and the conflicting and opposite position taken by a district office in another city. These issues were discussed in detail. Shortly thereafter, events occurred in the home which, in conjunction with the Ombudsman's findings, precipitated apprehension of the children. The Ombudsman was satisfied the action had alleviated any concerns of possible risk to these children.

■ An individual complained of being denied social assistance following a job lay off. The individual appealed the decision but had not heard the results of the appeal at the time of contacting the Office of the Ombudsman, one month later.

The investigation confirmed a significant delay in the Department's response back to the client. On the basis of the administrative error and the Ombudsman's suggestion, the Department agreed to assist the client pending the appeal hearing, or, if the complainant provided confirmation of upcoming employment, the Department would pay assistance until receipt of the first paycheque. Unfortunately, the complainant chose not to follow through with the Department to accept this offer to resolve the problem.

■ The complainant, who is the trustee for a dependent adult, was denied application to be paid as a care giver. This action was in support of the policy of the Department. However, it was found initial correspondence to trustees, which outlines independents' handicapped benefits, was inadequate in conveying information regarding non-payment of services to immediate family members. A recommendation was accepted by the Deputy Minister to include this information on future revisions to the Individual Services Plan, which is used to request personal support services. Staff, through revisions to policy, will be instructed to communicate this information to service requesters.

■ An individual complained of being unfairly denied an Assured Income for the Severely Handicapped (AISH) pension, not because of failing to meet the criteria of being severely and permanently disabled but because the complainant had hopes of becoming self-supporting. The complainant suffers from a debilitating illness, making it necessary to use a wheelchair, and as well, because of the disability, has impaired speech. The person was in the process of getting further education, and on this basis, the AISH award was denied. The Act does have a requirement that a client pursue retraining/rehabilitation which may enable each individual to become employable.

The Office of the Ombudsman suggested to the Department the client be assessed by Vocational Services to determine whether the Department's expectations of employment were practical, even with retraining/rehabilitation. The Department accepted the suggestion and made the appropriate arrangements for the assessment. While there was no administrative or procedural error identified, the recommendation by the Office of the Ombudsman allowed

for a more equitable review and determination for the complainant. AISH was granted subsequent to this review.

■ This complainant was receiving assistance from the Department of Family and Social Services. When a decision by the Department was appealed by the complainant, the Citizens' Review Committee ordered shelter costs be paid for three months. The Department, in this instance, had only paid rent.

Without conducting a formal investigation, the Office of the Ombudsman was able to negotiate with the Department a payment for three months' shelter costs, which was rent plus gas and utilities. This action resolved the complainant's problem.

■ A resident of an Alberta city complained the Department made an unfair decision to terminate social assistance benefits. The complainant stated the Department's actions were not consistent with written advice received to the effect benefits would be received directly from Edmonton on a payroll basis.

The investigation revealed benefits were terminated when the complainant did not consistently attend an educational program to become literate. Future benefits were contingent on attendance in the next program. After attending the program for five days, the complainant required surgery, resulting in being medically unfit for employment for at least a month. The Office of the Ombudsman communicated this information to the District Office Manager who commenced benefits because of the change in circumstances. Since the complainant could not read or write, the results of the investigation were explained in person.

■ An individual complained about being denied Assured Income for the Severely Handicapped benefits when the Department interpreted the doctor's reference to "light work" abilities as relating to employability rather than housekeeping duties. The complainant also raised numerous concerns about comments made by the Appeal Panel and the fact the Panel was not knowledgeable in the medical field.

To qualify for this program, an individual must prove the condition so severely impairs a person physically or mentally that it substantially limits the ability to earn a livelihood; plus the condition must be of a permanent nature and no remedial therapy exists that would lessen the impairment. The condition did not meet the criteria, thus this portion of the complaint could not be supported.

However, significant concerns were noted about the lack of professionalism demonstrated by members of the Appeal Panel, which were reviewed by the Chairman of the Appeal and Advisory Secretariat. As a result of these concerns, the Appeal Panel was counselled about the decision-making process.

■ Social assistance benefits were terminated for an individual who subsequently appealed the decision. Prior to the appeal, the complainant stated the Department had not supplied a summary report. The complainant also claimed the Appeal Committee was given incorrect information from the Department.

The Ombudsman supported the complaint. As a result of the investigation, a procedure was approved to provide appellants, in the reception area, with a copy of the appeals summary prior to the hearing. This procedure would allow the appellant to be better prepared for the appeal and to identify and bring misinformation to the attention of the Department before a hearing.

■ Unfair and harassing treatment from a social worker was the basis of a complaint supported by the Ombudsman. The investigation confirmed the individual was denied a cheque paying Income Security benefits, despite sufficient medical evidence on file to support the claim of being temporarily unemployable for medical reasons.

A medical report was brought to the Assistant District Office Manager on the advice of the Office of the Ombudsman during an oral complaint. The cheque was again denied. A subsequent inquiry by the Ombudsman's office to the Assistant District Office Manager indicated the social worker had phoned the doctor who would not support verbally what had been indicated in the written medical report.

The Ombudsman's investigation determined in fact the social worker did not contact the physician on the stated day. When the doctor was contacted, it was learned the social worker and doctor were involved in an argument. It was the opinion of the physician the social worker was trying to convince him there was nothing wrong with the complainant. He was very concerned that a lay person was questioning his ability to diagnose. The physician also felt the social worker was nasty and, in his opinion, was harassing his client who was suffering from physical problems and mental stress.

■ An individual complained of being denied expenses for diagnostic treatment by the Department of Family and Social Services. The complainant also alleged the Appeal Panel made inappropriate statements.

The Ombudsman found the Appeal Panel, contrary to the **Administration Procedures Act**, made recommendations on issues which were not before the Panel for discussion. He brought this matter to the attention of the Appeal and Advisory Secretariat, who agreed to have the matter heard by an independent appeal committee. The Ombudsman also suggested the complainant supply more medical information to support the case.

■ An individual complained of being wrongly denied assistance and of being treated unfairly and rudely by the Citizens' Appeal Panel.

A member of the Citizens' Appeal Panel admitted to making an inappropriate comment. The member stated it was not the intent to be rude and offered an apology to the complainant. The complainant was satisfied with the results of the investigation and felt the results would benefit others appearing before the Citizens' Appeal Panel.

■ A complainant stated there was unfair denial of social assistance benefits. When appealed before the Citizens' Appeal Panel, the individual felt inappropriate comments were made regarding future eligibility and information regarding child welfare issues.

Allegations of inappropriate actions by the Citizens' Appeal Panel were supported by the Ombudsman. The Ombudsman found the Citizens' Appeal Panel could not direct the Department to flag a recipient's file for purposes of establishing future entitlements. It was inappropriate for the Panel to have the file referred to Child Welfare when the issue was not before the Panel. The Director, Appeal and Advisory Secretariat, concurred with the Ombudsman's findings, and the matter was reviewed with the Chairman of the Appeals Panel. As well, the pending appeal of the complainant would be heard by a separate panel ensuring an unbiased decision.

Forestry, Lands & Wildlife

■ The focus of this complaint was whether commercial fishermen should be forced to live in the zone in which they fish. The province is divided into several zones for the purposes of commercial fishing. The complainants argued the restrictions violate the Canadian Charter of Rights and Freedoms. The conclusion of the legal review commissioned by the Ombudsman was that any violation of the Charter could be justified under the section of the Charter which allows some violations if they can be shown to be necessary and desirable. The Ombudsman agreed with the Department that there is evidence that most commercial fishermen support the zone requirement in order to preserve local jobs and keep one or two large companies from monopolizing the industry.

During the investigation, a secondary issue came up. If a commercial fisherman changes residences, a 12-month period must elapse before applying for a license in the new zone. The Ombudsman suggested this was unnecessarily restrictive and suggested it be changed when Alberta alters the commercial fishing regulations in the future. Changes are being prepared at this time. The Deputy Minister promised to consider the Ombudsman's suggestion.

■ When the complainants purchased a house, they also bought the improvements on an adjoining land lease on provincial land. In the normal course of events, they expected the lease would be reassigned to them. The law does not require the province to reassign the lease, but in most cases it does. Before the paperwork was completed, the vendor of the house appeared in the local Forestry office with another individual and illegally sold the improvements a second time, to another individual. Forestry assumed the second sale was legal and formally reassigned the lease to the second purchaser.

The investigation showed the Department acted legally and properly with the information it had on hand. It could have reassigned the lease to the second party even if the Department believed the complainant or anyone else had purchased the improvements. Fortunately, the complainant, second party, and government, all took a cooperative approach to solving the problem. An additional area of provincial land was added to the original lease and it was then divided between the complainant and second party. The two new leases are smaller than the original, but everyone's needs were met.

■ When farmland decreased in value in the mid-1980's, farmers who obtained crown land under a Farm Development Lease found they were developing land which was overpriced. This lease program encouraged farmers to develop land for eventual purchase. The government agreed to reappraise the land, providing the farmers applied for a reappraisal by a set date and completed improvements on the land by a later date.

The complainant was aware of the reappraisal option but did not apply, because it was felt the improvements could not be completed on time. However, the complainant learned subsequently that the neighbours who applied also did not finish the work on time but were offered an extension to the deadline. The complainant had finished the work before many others but was told by the Department that, because the application was not made on time, the complainant did not qualify for the extension. This resulted in a complaint to the Ombudsman.

Upon discussion, the Ombudsman determined the Department had already come up with the solution, but the complainant had not understood it. The Department offered to put the complainant's land up for auction. Although there was a risk that someone would outbid the complainant, it was unlikely. Anyone else would have to buy the land and also pay the complainant for the improvements. Another person could buy a developed property elsewhere for less. After listening to the Ombudsman and the Department again, the complainant agreed the land could go up for auction. The complainant was the only bidder and acquired the land at a favourable price.

Health

■ An investigation was conducted into a complaint that confidentiality was breached while the person was a client at Mental Health Services. The complainant received treatment from one therapist while another family member saw a second therapist. The two consultants discussed the cases together without permission of either of the family members. When the complainant approached the Department about the unauthorized sharing of confidential information and also raised concern about actions of a particular therapist, the individual was told an informal review would be conducted but not that an appeal could be made to the professional association to which the therapist belongs.

After recommendations from the Ombudsman, the Department agreed permission should be sought from clients before consulting with another therapist treating members of the same family. As well, the Department agreed that individuals will be made aware of the therapists' professional association through which a request for an investigation can be submitted.

Municipal Affairs

■ In 1986, the complainants applied for and received renters' assistance available to senior citizens. The following year, they asked about the program but were advised it was cancelled. In 1990, the complainants learned they had been misinformed and contacted the Department asking for grants for the years missed. The Department accepted the complainants had been misinformed but only provided grants for a portion of the time missed.

Upon being contacted by the Ombudsman, the Department agreed to extend the grants to all the years the complainants missed, based on the fact the Department had provided incorrect information.

■ An Improvement District issued tenders for garbage collection in an area within its jurisdiction. The complainant submitted by far the lowest bid and it met the specifications outlined in the tenders. However, council liked the service offered by a high bidder and selected that individual.

After being contacted by the Ombudsman, the Department of Municipal Affairs conducted its own investigation and concluded the tendering process was unfair because the Improvement District advertised for one set of specifications, but changed its mind mid-stream without giving other bidders a chance to revise their submissions.

The Department agreed to improve its tendering process. The complainant told the Ombudsman it was the efficient use of government money that was the concern. As such, an appropriate resolution was that the tendering process will be tighter in the future to avoid such problems.

■ Under the Alberta Family First Home Program, a first-time buyer must register the mortgage with the Land Titles Office in order to qualify for benefits. The Program was not advised the mortgage in question had not been registered until eleven months after benefits had started; as a result, the home owners were advised an overpayment of benefits had been calculated. They registered their mortgage, and properly re-qualified for the program, but were told the overpayment still exists.

The Office of the Ombudsman conducted a number of informal inquiries and determined that this family is entitled to benefits for the full sixty months and the eleven-month gap while their mortgage was not registered will just extend their benefit period. They had the option of repaying the overpayment and resuming regular monthly benefits, or not receiving their monthly benefits until the overpayment period is satisfied. There had been a breakdown in communication between the Program and the complainants, and the Program administrators agreed to send out a letter better explaining the options that are available.

Solicitor General

■ An inmate complained of being wrongly found guilty of an internal charge of threatening an officer, resulting in an increase in the individual's security rating and transfer to another institution. The investigation revealed the threat was made in the form of a handwritten note. The correctional staff concluded the complainant wrote the note. The Ombudsman referred the note to outside handwriting experts who could not confirm or reject the conclusion the complainant was the writer. Based on the expert opinion, the recommendation of the Ombudsman that the conviction be overturned was accepted.

Even though the Ombudsman did not believe there was enough evidence to convict the inmate, the transfer to another institution was supported. Someone threatened an officer; such threats are extremely serious, resulting in transfers of inmates, even when the exact source of the problem cannot be identified. The inmate benefited from the investigation by having the conviction of threatening violence removed from the record.

■ An individual in a provincial correctional facility complained of (1) facing an unfair disciplinary charge and subsequent sentence, and that (2) correspondence the complainant addressed to the Director of the correctional facility, a lawyer, and the Ombudsman was being discarded by staff at the correctional centre. As a result of the investigation, it was determined that correspondence to the Director, the lawyer, and the Ombudsman was not being discarded: furthermore, the disciplinary charge and sentence was deemed to be fair. However, there was enough

conflicting evidence that support could not be demonstrated for either the complainant or the staff as to whether or not the process used in conducting the disciplinary hearing was fair. As a result, a recommendation was made to the Department suggesting that in the future, all disciplinary hearings be taped. It was the opinion of the Ombudsman that such recordings would alleviate discrepancies or contradictory statements made either by an inmate or staff during the disciplinary hearings. The recommendation was accepted and implemented by the Department with the result that disciplinary hearings are now being taped throughout provincial correctional facilities.

A young offender had mail addressed to "Operation Desert Shield" and signed by "Private (X)" confiscated by the Director. The letter was reviewed and staff raised concerns about the degree of interest in the letter about different types of weaponry, particularly in view of the fact the young offender was in custody on weapons-related charges. The investigation determined no policy had been established directing how young offenders are to be notified that mail has been confiscated. In fact, our complainant was not advised the mail had been withheld until a meeting was held with a psychologist. It was only after this meeting the young offender was given the opportunity to rewrite the letter deleting references to weaponry. A new policy was implemented which requires that young offenders be notified in writing within twenty-four hours if incoming or outgoing mail is withheld for any reason.

The complainant, a recently discharged inmate, was required to pay transportation costs from the correctional centre to home. The individual felt this unfair as others had their transportation costs paid by the centre. Department policy directed that inmates with sufficient funds in their canteen account on release were responsible for their transportation home. Those without sufficient funds in their canteen account had their transportation costs paid for by either the releasing centre or Family and Social Services. This policy seemed to be unfair as it penalized the offender who was saving canteen money to use on release. The Department agreed, and its policy in cases such as this now stresses effective offender management with transfer of the offender to the point of entry into the correctional system prior to release.

The Department of the Solicitor General, in conjunction with the Personnel Administration Office, reviewed and revised their policies on sexual harassment to ensure, among other things, that employees accused of sexual harassment were fully informed of allegations made against them and given every opportunity to respond to them. Both Departments also agreed that an accused was entitled to know who the accusers were and to be given specifics of the allegations made, sufficient to ensure a fair opportunity to respond.

This change in policy was initiated after an employee complained about being terminated following general allegations of sexual harassment made by peers. The accusers were never identified, and the allegations were of such a general nature that the accusers remained anonymous.

The investigation did reveal that the decision to terminate was appropriate however and, thus, further remedial action was not recommended. It became apparent that neither the Solicitor General nor the Personnel Administration Office had any policy in place respecting these issues, and recommendations for change were made to, and accepted by, both Departments.

■ An investigation was commenced when a complainant alleged visiting privileges were denied with the individual's common-law spouse. The common-law couple were incarcerated in the same correctional facility. The case was resolved informally through negotiations between the Office of the Ombudsman and the correctional facility which resulted in common-law spouses being allowed visiting privileges. During the course of the inquiry, it was noted that there was no standard policy for such visits. As a result of the investigation and through discussion with the Deputy Solicitor General, it was identified there was a need to more clearly define what constitutes a common-law relationship and, additionally, to establish a reasonable standard for visits between common-law spouses simultaneously held in custody. Policy was revised.

■ As a result of an investigation, the Department of the Solicitor General paid for the repair of a pair of eye glasses owned by an individual incarcerated at a provincial correctional centre.

The inmate was transferred from one centre to another and found on arrival, that glasses in the personal effects (which had been shipped separately) had been broken. The Department initially denied responsibility for the damage and refused to pay.

Subsequent investigation revealed that the inmate had returned to the first centre at the end of a Temporary Absence. There was suspicion of intoxication which resulted in an altercation when a correctional officer attempted to use a breathalyser. The transfer was a direct consequence of the fight. The evidence gathered indicated that the spectacles were broken after the inmate had been subdued and removed from the centre.

■ An inmate, originally in a federal correctional centre, was transferred to a centre in Alberta. While in the provincial centre, the inmate appealed for, but was denied, a Temporary Absence in March 1991. As a result, the complainant decided to apply to the National Parole Board, but was informed by the case worker in the provincial correctional centre that the

application was inappropriate. A second application for a Temporary Absence was denied in July 1991.

The investigation by the Office of the Ombudsman revealed that the inmate had the right to apply to the National Parole Board and had received bad advice from the case worker. Alberta Correctional Authorities did expedite a hearing for the inmate before the National Parole Board. As well, Provincial Parole Board policy was amended to ensure that federal offenders in provincial institutions are informed of their rights to apply to the National Parole Board even if a provincial Temporary Absence application is being processed or has been denied.

■ Several inmates of a provincial remand centre complained that they were being harassed by guards waking them up hourly during the night and, when they contacted the media about it, they were unfairly disciplined.

The subsequent investigation by the Office of the Ombudsman resulted in confirmation of the Department's responsibility to ensure that inmate's were alive and well but concluded that for a short period some checks were being performed in an unreasonable way. A few guards were deliberately and unnecessarily waking a limited number of inmates during the night. The problem was very localized within the institution.

The "wake-up" calls were a short-term problem that was appropriately addressed by management providing clearer direction to staff on the progressive procedures they should follow to confirm inmates were alive.

As far as the allegation of unfair disciplinary action being taken, it was determined that the action was appropriate. Contacts with the media had gone beyond being reasonable and had reached the point where discontent was being fomented in the institution. It was significant that many inmates only found out about the "wake-up" concerns when they read about it in newspapers.

Boards and Agencies

Energy Resources Conservation Board

■ This complainant had requested and obtained a public hearing before the Energy Resources Conservation Board (ERCB). The complainant took exception to fifteen separate issues in relation to the decision by the ERCB. In addition, the complainant felt the ERCB had reached the wrong decision.

The investigation was able to identify two minor errors in the written decision issued by the ERCB. These two errors were corrected when brought to the attention of the ERCB through the investigation. All interested persons were advised of the amendment made to the decision of the ERCB. The two administrative errors identified had little or no bearing on ERCB's decision and certainly did not have any effect on the complainant.

Workers' Compensation Board

■ An employer complained of excessive delays experienced with an appeal submitted to the Workers' Compensation Board (the WCB). During this time delay, the employer was paying, what they believed to be, significantly higher premiums. Documentary evidence supported a 17-month delay in processing the firm's appeal. The appeal was expedited on a priority basis by the efforts of the Ombudsman, and the extensive delay was attributed to adjudicative error and inaction. During investigation, further administrative errors, including accounting errors, were found and corrected, and an apology was sent to the complainant on the recommendation of the Ombudsman.

■ Undue delays in the processing of a compensation claim at the WCB resulted in an individual being forced to apply for and receive social assistance benefits.

The Ombudsman supported the complaint noting there was a 22-month delay from the time the claim file opened at the WCB until compensation was paid. The Ombudsman found the extensive delay was related to adjudicative inaction and failure to follow proper procedures. The WCB acted on the Ombudsman's letter of inquiry paying compensation four days after the letter was received.

■ The individual filed a complaint because it was felt benefits should have been received from the WCB for a more extended time period, while results of the investigation revealed medical reports did not support extending this period of full compensation. However, through the investigation, it was found that several references were made on the file to the individual suffering emotional trauma as a result of the accident which had not been previously investigated. On the recommendation of the Ombudsman, the WCB agreed to review the file to determine whether it should assume any responsibility for the condition.

On review, the Ombudsman also recommended that the WCB provide this individual with a professional interpreter in any future appeal hearings as well as adequate translation in situations where the individual's rights would be affected. The WCB agreed to do so.

■ An individual had written a complaint suggesting there had been unreasonable delay in the processing of two claims with the WCB. While part of the problem creating the delay originated with the worker's employer retaining medical documentation which hindered the WCB's adjudication, the

two claims were handled by different adjudicators resulting in the files becoming mixed up and the claims being dealt with separately. During the course of the investigation, one case manager did assume responsibility for the files which eliminated the confusion, resulting in positive decisions being made regarding the complainant's claims.

The Ombudsman, as a result of the investigation, recommended that in future, whenever a worker has submitted two claims, the claims be handled by the same case manager. This recommendation was accepted by the WCB.

A complaint was filed with the Office of the Ombudsman by an employer alleging the WCB had improperly collected premiums before allowing for an appeal and, subsequently, interest was denied on these premiums when the appeal ruled in the WCB's favour. A thorough investigation by the Office of the Ombudsman concluded the monies had been improperly collected, there was a delay of several months which could be related to administrative inactions, and interest on the monies should be paid. The President of the WCB accepted the rationale and findings of the Ombudsman and, despite the WCB's policy to negate payment of interest on premiums collected, granted interest on the monies for five months which successfully resolved the complaint. The complainants corresponded with the Office of the Ombudsman expressing their satisfaction with the investigation and resolution.

An individual complained of experiencing delays by the WCB in responding to the doctor's reports which resulted in a delay of medical treatment. As well, the complainant and the complainant's lawyer had not been granted an opportunity to review the file within a reasonable time of the request being submitted.

The Ombudsman supported the complaint, finding excessive delays were suffered in trying to access the file for purposes of contemplating an appeal to the pension award. Legal fees incurred during this process of trying to access the file were paid for by the WCB on the recommendation of the Ombudsman. Administrative and procedural error was corrected with assistance provided to the complainant.

An individual felt additional Temporary Total Disability benefits had been denied by the WCB. While the Ombudsman found there was insufficient evidence to recommend the complainant receive these additional benefits, the investigation did identify administrative inaction by the Vocational Rehabilitation Department regarding direction by the Appeals Commission. Specifically, the Commission instructed the Vocational Rehabilitation Department to contact the individual to obtain details from employer contacts to determine if the complainant qualified for any additional re-employment benefits. Unfortunately, this did not happen. As a result of the investigation, the matter was expedited.

■ On a request from the Minister responsible for the WCB, the Ombudsman investigated the circumstances surrounding the suicide of a worker in the parking lot of the Calgary office of WCB in May 1991.

Specifically, the worker had suffered a head injury in 1987 after falling from scaffolding. The injuries were classified as serious, requiring long term rehabilitation to relearn basic skills of living.

There was an extensive investigation conducted. Some of the conclusions reached based on the investigative review by the Office of the Ombudsman included:

- The WCB had caused unnecessary and extensive delays with regard to many compensable entitlements for the injuries to the worker.

- Although this was a file designated "special adjudication," the worker appeared to be treated with indifference with little evidence of empathy or concern exhibited.

- Correspondence directed to the WCB on the worker's behalf was not answered; the worker was not included or kept informed of the WCB's intentions.

- The most serious concern related to an overpayment identified and calculated in August 1990, but the error was not corrected. The worker was very concerned about the continuing overpayment, engaging both a lawyer and a WCB Advocate to try to resolve the problem. The WCB deemed there could be no appeal concerning an overpayment as this was an administrative decision, not adjudicative and not appealable.

- The Vocational Rehabilitation Department did not meet its mandate as per policy, with the worker and family being left with the impression that they had the primary responsibility for rehabilitation.

- On review, there was no evidence the file was ever reviewed by management or a supervisory level employee.

Based on the investigative review, many recommendations made by the Ombudsman were forwarded to the Minister, some of which include:

- Early intervention by the Vocational Rehabilitation Department in all cases including brain-injured workers should be adhered to, as stipulated in the WCB policy.

- Case managers/personnel involved with brain-injured workers must be cognizant of special circumstances required in interacting with the brain injured, and there should be a personal one-on-one dialogue between the case manager and the brain-injured worker.

- If at all possible, brain-injured claim files should be handled by one case manager throughout the duration of adjudication. If there is a change in case managers, the new case manager should correspond and personally meet with the claimant in order to develop a proper rapport and genuine interest relationship. In the event there is a new case manager who is unable to meet with the client personally, the claims counsellor/investigator from the Calgary office or applicable branch office should meet on behalf of the case manager.

- Clients interacting with the WCB, orally or in writing, should have a right to expect a reply. The WCB, in the Ombudsman's opinion, has a responsibility to reply to such inquiries.

- Calgary and district claimants (southern Alberta) should have the same level and standard of treatment by the WCB as do Edmonton and district claimants (northern Alberta). Claimants should be able to totally communicate with a case manager, this includes personal meetings, in Calgary or Edmonton.

- A decentralized system should provide full authority, financially/administratively, when dealing with claimants. Case managers should be based at the Calgary office to accommodate not only Calgary and district but also the southern Alberta region.

- All available specialized medical expertise in Calgary should be utilized when claimants are ordered for examination. Claimants should not be subjected to medical examination in Edmonton when there are equal and available services in Calgary.

- Case managers assigned brain-injured workers' files or any long-term disability files should prioritize regular compensation benefits and auxiliary payments such as personal care allowance, eye glasses, and transportation expenses, over sundry administrative matters.

- Claimants who are "overpaid" compensation benefits by the WCB should have the right to utilize the appeal processes as outlined by the WCB legislation.

- Specialized or long-term files, such as brain-injury worker files, should be reviewed by senior management/supervisory levels for the purposes of quality control at least every six months.

The WCB has accepted all ten of the Ombudsman's recommendations. It has, or is in the process of, implementing these recommendations.

Excerpts from the Ombudsman Act

The excerpts that follow describe the functions and duties of the Ombudsman, the types of complaints he will investigate and those he will not, and the essence of the procedure that takes place once the Ombudsman has accepted a complaint for investigation.

Functions and duties

11 (1) It is the function and duty of the Ombudsman to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

(2) The Ombudsman may make an investigation either on a complaint made to him by any person or of his own motion, and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission as mentioned in subsection (1).

(3) The powers and duties conferred on the Ombudsman by this Act may be exercised and performed notwithstanding any provision in any Act to the effect

(a) that any decision, recommendation, act or omission mentioned in subsection (1) is final,

(b) that no appeal lies in respect thereof, or

(c) that no proceeding or decision of the person or organization whose decision, recommendation, act or omission it is shall be challenged, reviewed, quashed or called in question.

Jurisdiction restricted

12(1) Nothing in this Act authorizes the Ombudsman to investigate

(a) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act until after that right of appeal or objection or application has been exercised in the particular case or until after the time prescribed for the exercise of that right has expired,

(b) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings, or

(c) any decision, recommendation, act or omission of the Mental Health Patient Advocate or an employee of the Mental Health Patient Advocate appointed or employed under the **Mental Health Act**.

(2) If any question arises as to whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Court of Queen's Bench for a declaratory order determining the question.

Refusal to investigate

14(1) If in the course of the investigation of any complaint it appears to the Ombudsman

(a) that under the law or existing administrative practice there is an adequate remedy, other than the right to petition the Legislature, for the complainant, whether or not he has availed himself of it, or

(b) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate any complaint

(a) if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than 12 months before the complaint is received by the Ombudsman, or

(b) if in his opinion,

(i) the subject matter of the complaint is trivial,

(ii) the complaint is frivolous or vexatious or is not made in good faith, or

(iii) the complainant has not a sufficient personal interest in the subject matter of the complaint.

Conduct at investigation

16(1) Every investigation by the Ombudsman under this Act shall be conducted in private.

(2) The Ombudsman may hear or obtain information from any persons he thinks fit and he may make inquiries he thinks fit.

Evidence at investigation

17(1) Subject to this section and section 18, the Ombudsman may require any person who, in his opinion, is able to give any information relating to any matter being investigated by him

(a) to furnish the information to him, and

(b) to produce any document, paper or thing that in his opinion relates to the matter being investigated and that may be in the possession or under the control of that person,

whether or not that person is an officer, employee or member of a department or agency and whether or not the document, paper or thing is in the custody or under the control of a department or agency.

Procedure after investigation

20(1) This section applies when, after making an investigation under this Act, the Ombudsman is of the opinion that the decision, recommendation, act or omission that was the subject matter of the investigation

(a) appears to have been contrary to law,

(b) was unreasonable, unjust, oppressive or improperly discriminatory or was in accordance with a rule of law, a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory,

(c) was based wholly or partly on a mistake of law or fact, or

(d) was wrong.

(2) This section also applies when the Ombudsman is of the opinion

(a) that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised

(i) for an improper purpose,

(ii) on irrelevant grounds, or

(iii) on the taking into account of irrelevant considerations,

or

(b) that, in the case of a decision made in the exercise of a discretionary power, reasons should have been given for the decision.

(3) If, when this section applies, the Ombudsman is of the opinion

(a) that the matter should be referred to the appropriate authority for further consideration,

(b) that the omission should be rectified,

(c) that the decision should be cancelled or varied,

(d) that any practice on which the decision, recommendation, act or omission was based should be altered,

(e) that any law on which the decision, recommendation, act or omission was based should be reconsidered,

(f) that reasons should have been given for the decision, or

(g) that any other steps should be taken,

the Ombudsman shall report his opinion and his reasons for it to the appropriate Minister and to the department or agency concerned, and may make any recommendations he thinks fit and in that case he may request the department or agency to notify him within a specified time of the steps, if any, that it proposes to take to give effect to his recommendations.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion after considering the comments, if any, made by or on behalf of the department or agency affected, may send a copy of the report and recommendations to the Lieutenant Governor in Council and may thereafter make any report to the Legislature on the matter that he thinks fit.

(5) The Ombudsman shall attach to every report sent or made under subsection (4) a copy of any comments made by or on behalf of the department or agency concerned.

Results of investigation to complainant

21(1) If the Ombudsman makes a recommendation under section 20(3) and no action that seems to the Ombudsman to be adequate and appropriate is taken on the recommendation within a reasonable time, the Ombudsman shall inform the complainant of his recommendation and make whatever comments on the matter he thinks fit.

(2) The Ombudsman shall in any case inform the complainant, in the manner and at the time he thinks proper, of the result of the investigation.

Annual report

27(1) The Ombudsman shall in each year make a report to the Legislature on the exercise of his functions under this Act.

(2) The Ombudsman may, from time to time, in the public interest or in the interests of any person or department or agency, publish reports relating

(a) generally to the exercise of his functions under this Act, or

(b) to any particular case investigated by him,

whether or not the matters to be dealt with in any such report have been the subject of a report to the Legislature.

(3) The Ombudsman shall not, in a report made under this section, express any opinion or make any comment that is adverse to

(a) any department or any officer or employee of a department,

(b) any agency or any member or employee of an agency, or

(c) any other person or group of persons,

unless prior to making the report to the Legislature or publishing the report pursuant to subsection (2), as the case may be, the Ombudsman has given that department, agency, officer, member, employee, person or group of persons an opportunity to know the nature of the opinion or comment and to make representations to him in respect of it either personally or by counsel.

Offences and penalties

30 Any person who,

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act,

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act, or

(c) wilfully makes a false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act,

is guilty of an offence and is liable to a fine of not more that $1000 and in default of payment to imprisonment for a term not exceeding 3 months.